

Testimony
PSC Chief Counsel Al Brogan
In support of
Senate Bill 62
January 13, 2011

Senate Bill of Montana
Exhibit No. 5
Date 1/13/2011
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Chairman Olson and members of the Committee:

The PSC has requested and unanimously supports passage of SB 62.

The Electric Buying Cooperative Act is a remnant of Montana's experiment in electric restructuring. It was enacted in 1999 as Senate Bill 406. The "WHEREAS" clauses in SB 406 clearly demonstrate that the Legislature intended to maximize the chances of an electricity buying cooperative to purchase being able to purchase small customers from the Bonneville Power Administration at preferential rates. Initially the only permitted purpose of a buying cooperative was "supplying electricity to small customers as a default supplier." There was recognition that some small customers would not join a buying cooperative and the Public Service Commission was given authority to assign customers to a buying cooperative. In 2001, "serving as a supplier or promoter of alternative energy and conservation programs" was authorized as an additional permitted purpose. In 2003, the initial permitted purpose was repealed.

No electricity buying cooperative was ever formed. From 2003 to 2007, the ability of small customers to choose an electricity supplier was limited and restricted. In 2007, HB 25 eliminated any ability for small customers to purchase electricity from a supplier other than a public utility – except for those who had already chosen an alternative supplier.

With passage of the Electric Utility Generation Reintegration Act, there is no circumstance in which the Public Service Commission could assign a small customer to a buying cooperative. Therefore, the part of § 35-19-107(2), MCA, that provides a member "may be assigned to a buying cooperative by the public service commission, as provided by commission rule" has no effect and should be repealed.

For these reasons, the PSC recommends that you give SB 62 a do pass.